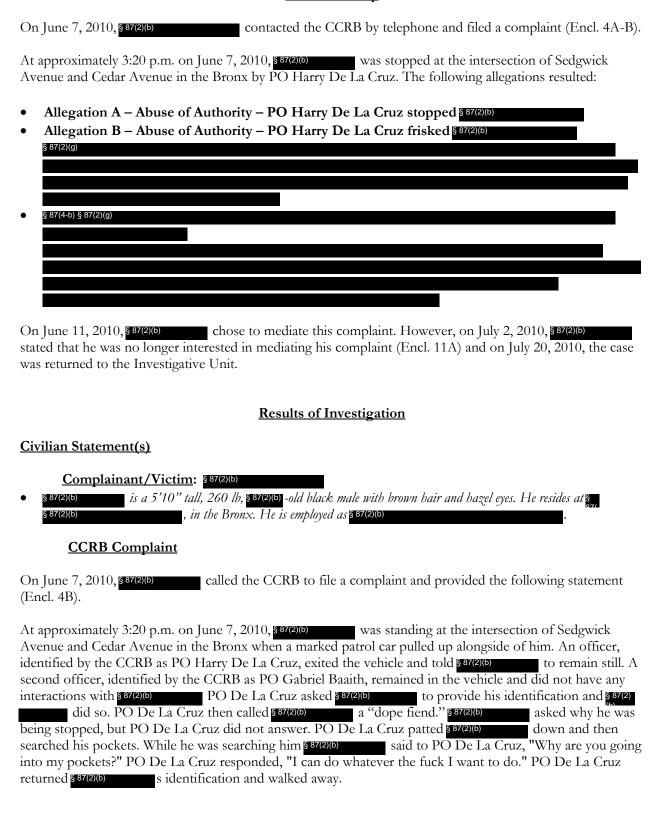
# CCRB INVESTIGATIVE RECOMMENDATION

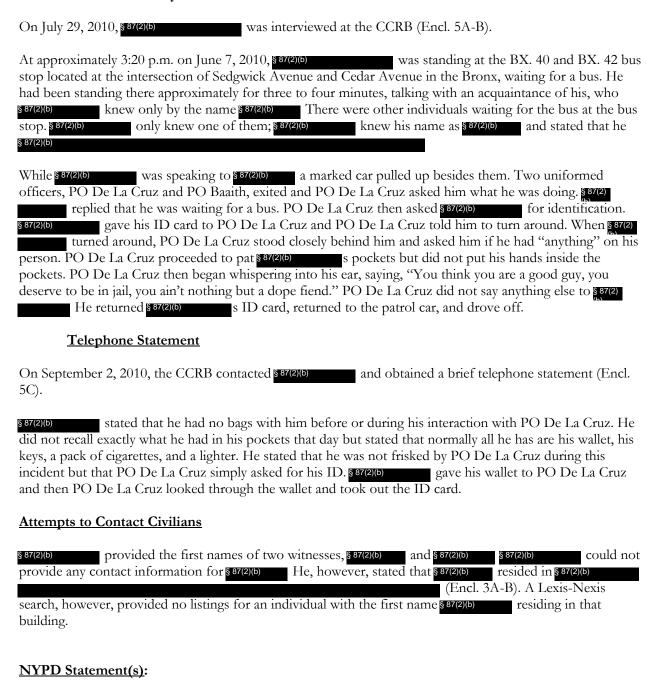
т		lm.	GGDD G #		<b>— D</b> :	<b>—</b> 11.0
Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	☐ U.S.
Alexander Opoku-Agyemang		Team # 5	201007643	☑ Abuse	O.L.	☐ Injury
T. C. C.		T CT			10.14	EO GOI
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Monday, 06/07/2010 3:20 PM		Sedgwick Avenue and	Cedar Avenue	46	12/7/2011	12/7/2011
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	Received at CCF	RB
Mon, 06/07/2010 3:27 PM		CCRB	Phone	Mon, 06/0	7/2010 3:27 PM	
Complainant/Victim	Type	Home Addre	ss			
Witness(es)		Home Addre	ss			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Harry Delacruz	20377	941272	046 PCT			
Witness Officer(s)	Shield N	Tax No	Cmd Name			
1. POM Gabriel Baaith	25605	942970	046 PCT			
Officer(s)	Allegation	on		Inve	stigator Recon	nmendation
A.POM Harry Delacruz	Abuse: F	O Harry Delacruz stopp	ed § 87(2)(b)			
B.POM Harry Delacruz	Abuse: F	O Harry Delacruz friske	ed § 87(2)(b)			
§ 87(4-b) § 87(2)(g)						

#### Case Summary



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#### **CCRB Testimony**



#### Subject Officer: PO HARRY DE LA CRUZ

- Det. De La Cruz is a 807(2)(b) -old, 6'3" tall, 180lb, Hispanic male with black hair and black eyes.
- On June 7, 2010, PO De La Cruz worked in the 46th Precinct and was partnered with PO Gabriel Baaith and assigned
  to Conditions and Prisoner Transport in a marked patrol car. He worked from 9:00 a.m. to 6:05 p.m. and was
  uniformed.

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#### Memo Book

PO De La Cruz's memo book (Encl. 6A-B) indicates that at 3:10 p.m. on June 7, 2010, he prepared a UF250 for a stop of stop of in front of 1793 Sedgwick Avenue because of a suspicious bulge. The bulge turned out to be six packs of cigarettes in a black bag tucked into his waistband. There is a note that said to PO De La Cruz, "I'm gonna fucking have your job" and "I hate you guys."

## **CCRB Testimony**

On September 2, 2010, PO Harry De La Cruz was interviewed at the CCRB (Encl. 6C-D).

PO De La Cruz explained that the neighborhood where this incident took place is a high crime neighborhood that had seen a large number of shootings around the time of this incident as a result an ongoing gang war between the RPT gang, which operated out of the neighboring River Park Towers, and the BMG gang, which operated out of the nearby Burnside neighborhood. PO De La Cruz and PO Baaith were assigned to patrol the area as a result of these incidents.

PO De La Cr	uz and PO Baaith were driving slowly down Sedgwick Avenue when PO De La Cruz noticed
§ 87(2)(b)	pacing besides 1793 Sedgwick Avenue. There was a bus stop at the end of the same block but
§ 87(2)(b)	was in the middle of the block and was far enough away from the bus stop that PO De La
Cruz did not l	believe that he was waiting for a bus. He noticed that §87(2)(b) was holding a large bulge
underneath hi	is t-shirt at his waistband with one of his hands. PO De La Cruz found the bulge and §87(2)
s bel	havior suspicious so he exited the patrol car and approached \$87(2)(b) PO Baaith also
exited the car	but did not approach § 87(2)(b)

PO De La Cruz asked § 87(2)(b)	if he had any wea	apons on him. § 87(2)(b)	said he didn't. PO De La
Cruz placed his hands on § 87(2)(b)	s waist and in	formed him that he was	going to frisk him. PO De La
Cruz proceeded to pat down the b	ulge and § 87(2)(b)	s waistline. PO De I	a Cruz felt the bulge and it felt
like a soft box so he stopped and e	explained to § 87(2)(b)	that he had been	stopped because of the bulge
underneath his shirt. § 87(2)(b)	removed the bulge	e of underneath his shirt	and showed it to PO De La
Cruz who saw that it was a plastic	bag with approxima	tely six packs of cigarette	es in it. PO De La Cruz
requested § 87(2)(b) s ID card	, filled out a UF250	stop and frisk report and	l left.

PO De La Cruz denied having cursed while speaking with \$87(2)(b) or having placed his hands inside his pockets or frisked any part of \$87(2)(b) so body besides the area around the bulge.

#### Witness Officer: PO GABRIEL BAAITH

- PO Baaith is a \$87(2)(b) -old, 5'11" tall, 272lb, black male with black hair and brown eyes.
- On June 7, 2010, PO Baaith works in the 46th Precinct and was partnered with PO De La Cruz and assigned to Conditions and Prisoner Transport in a marked patrol car. He worked from 9:00 a.m. to 6:05 p.m. and was uniformed.

#### Memo Book

PO Baaith has no entries in his memobook (Encl. 7A) regarding this incident.

#### **CCRB Testimony**

On September 9, 2010, PO Gabriel Baaith was interviewed at the CCRB (Encl. 7B-C).

Page 4 CCRB Case # 201007643 PO Baaith stated that he was familiar with the intersection of Cedar Avenue and Sedgwick Avenue but did not recall having had interactions with civilians at that location on June 7, 2010. He did not recognize a photograph of \$87(2)(5) and did not recall whether or not he was partnered with PO Harry De La Cruz on this day or having witnessed any interaction between PO De La Cruz and a civilian at this location.

## NYPD Document(s)

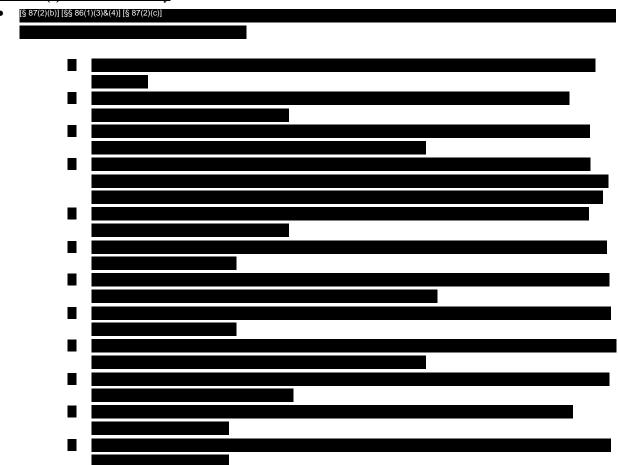
### **UF250 Stop and Frisk Logs**

• Three UF250 logs (Encl. 8A-C), covering the 46<sup>th</sup> Precinct from 6:00 a.m. to 11:59 p.m. on June 7, 2010, show no stop and frisk report for filed for a stop of \$87(2)(6) are or any unidentified individuals. They also showed no stop and frisk reports filed by either PO De La Cruz or PO Baaith. A request to the NYPD Criminal Records Section for such any such UF250s and they indicated that they had no such records (Encl. 12F).

## **Status of Civil Proceedings**

has not filed a Notice of Claim with the City of New York with regards to this incident as of October 19, 2010 (Encl. 11B).

## Civilian(s) Criminal History



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[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] Civilian(s) CCRB History has filed the following CCRB complaints (Encl. 2C): § 87(2)(b) Subject Officer(s) CCRB History PO Harry De La Cruz has been a member of the service for four years and there are no substantiated CCRB allegations against him (Encl. 2A-B). Conclusion Identification of Subject Officer(s) PO De La Cruz acknowledged stopping and frisking \$87(2)(b) on June 7, 2010. Allegations Not Pleaded In his initial CCRB complaint, \$87(2)(b) alleged that PO De La Cruz searched inside his pockets and that when he protested, PO De La Cruz replied, "I can do whatever the fuck I want to do." However, in his sworn CCRB statement, \$87(2)(b) stated definitively that PO De La Cruz frisked his pockets but did not put his hands inside the pockets. He did not repeat the discourtesy allegation either. § 87(2)(g) Furthermore, in a telephone statement provided after his sworn CCRB statement, \$87(2)(b) stated that PO De La Cruz did not frisk him during this incident. However, because \$87(2)(b) did make this allegation during his sworn CCRB statement and because PO De La Cruz admitted to frisking § 87(2)(b) the frisk allegation will be pleaded. While PO Baaith was identified as PO De La Cruz's partner during this incident, the statements of both and PO De La Cruz clearly indicate that PO Baaith had no interaction with \$87(2)(b) and played no role in his stop. § 87(2)(9) **Investigative Findings and Recommendations** Allegation A – Abuse of Authority – PO Harry De La Cruz stopped § 87(2)(b) Allegation B – Abuse of Authority – PO Harry De La Cruz frisked § 87(2)(b)

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As previously assessed in the All contradictory statements regarding De La Cruz searched him and specified that PO De La Cruz did not that PO De La Cruz did not be a cruz did	ng PO De La Cru ooke to him disco	z's actions during the urteously, then that	his incident. H	e initially stated that PO
because of a bulge und where this incident occurred because of the time of this incident. While oneighborhood while holding a bulge undernous approached and asked \$37(2)(b). De La Cruz proceeded to frisk to	erneath his shirt. It cause of a violent gon patrol, PO De ulging object at his eath \$87(2)(b)  If he had a violent \$87(2)(b)  the bulge at \$87(2)(b)	PO De La Cruz was gang war that was o La Cruz saw §87(2)(6) s waistband, underres shirt might have veapon on him. §87(4)	s assigned to p ccurring in the was p neath his t-shir been a weapon state bulge did no	e neighborhood around vacing along a block in the t. PO De La Cruz on. PO De La Cruz uted that he did not. PO
Kamins, New York Search & Se suspects based on "furtive behave the example of two officers who burglaries walking with bags and	vior of defendants observed two inc	s prior to questionin lividuals in a neighb	g" (Kamins, 2 oorhood with a	-60) (Encl. 1D) and cites a high incidence of
§ 87(4-b) § 87(2)(g)				
Team: 5				
Team. 5		:		
Investigator:		Alexander Opoku	-Aovemano	February 1, 2011
Signature		Print	-rigycinang	Date
Supervisor:				
Title/Signature	Print		Date	_
Reviewer:				
Terrewer.	CCRB (	Page 7 Case # <b>20100764</b> 3	3	_

	Title/Signature	Print	Date
Reviewer:			
•	Title/Signature	Print	Date